

# Editorial: Anti-immigrant bills would hurt workers, businesses and state

Jun 22, 2011|

Gov. Rick Snyder has said the right things about immigration and its benefits for a state with a stagnant economy and declining population. Still, some legislators don't get it.

State Rep. Dave Agema, a Grandville Republican -- who has introduced an intrusive, Arizona-style bill giving law enforcement officers broad powers to request proof of immigration status -- has yet another anti-immigrant plan. House Bills 4024 and 4026, before the House Commerce Committee this week, would require temporary staffing agencies, governments and employers on public contracts to use an ineffective federal immigrant verification system.

Agema's bills would require these businesses to verify, using the federal E-Verify immigrant verification system, the eligibility of workers. The bills would bar any business, including subcontractors, violating the law from contracting with government agencies for a year.

These bills might get politicians votes from

frustrated constituents seeking scapegoats in a tough economy, but they make poor social and economic policy. Pushing productive people away is the last thing a state struggling to retain jobs and people should want.

"We should worry about what this legislation says about Michigan and its economy," said Ryan Bates, director of the Alliance for Immigrants Rights & Reform -- Michigan. "Are we a welcoming state that understands immigrants are innovators, job providers, entrepreneurs and investors, or a state that's hostile toward people who just want to work, build a life and create businesses?"

But the bills do more than send the wrong message; they work on a database -- using Social Security numbers -- that is not only costly and cumbersome for small businesses to use but also notoriously flawed. Errors occur, among other reasons, due to identity theft, name similarities and failure to work with other databases.

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Businesses employing immigrant workers have reported error rates of up to 75%. Some of those errors are eventually cleared up, but not before an employee is likely fired.

Run by the Department of Homeland Security, E-Verify is voluntary for most employers nationwide but mandatory in Arizona. Besides failing to verify legal workers in many instances, the system fails to detect undocumented workers more than half the time, according to the Westat Research Corp.

By even the conservative estimates of the U.S. Department of Human Services, at least 1.2 million workers -- about 25,000 per state -- would lose their jobs if they didn't correct their identity records.

Michigan's economy does not need more red tape for businesses, nor does it need laws that discourage immigrants from coming or that drive them into an underground cash economy, where they don't pay taxes and face even more discrimination.

Legislators supporting these bills should take a hint from their pro-business governor: An anti-immigrant agenda is bad business for Michigan.

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# How Errors in E-Verify Databases Impact U.S. Citizens and Lawfully Present Immigrants

FEBRUARY 2011

**T**he E-Verify employment eligibility verification program is being sold as an easy fix that would curb unauthorized employment by immigrants and protect American jobs. But proposals to expand the program entirely ignore the effect the program will have on U.S. citizens and lawfully present noncitizens. At a time when the country is focused on increasing job growth, we should not enact policies that will increase unemployment and jeopardize the job security of American workers.

## ■ Database errors incorrectly identify U.S. citizens as not authorized for employment.

- A U.S. citizen born in Florida was hired for a well paying telecommunications position in October 2010. After she was hired, information from documents she submitted was processed through E-Verify, but the system issued a "tentative nonconfirmation" (TNC) notice to her. Her employer did not sit down with her to explain what a TNC means, nor to explain any of her rights. The worker visited her local Social Security Administration (SSA) office to try and resolve the situation, but, due to agency paperwork errors, she wasn't able to. She tried to communicate this to the employer, but ultimately the E-Verify system issued her a "final nonconfirmation" (FNC) notice, and the employer fired her. Since then, she has gone to great lengths to correct this error but has been unsuccessful. She was unemployed for over three months, including over the year-end holidays, but recently accepted a new, lower-paid position.<sup>1</sup>
- A U.S. citizen and former captain in the U.S. Navy with 34 years of service and a history of having maintained high security clearance was flagged by E-Verify as not eligible for employment. It took him and his wife, an attorney, two months to resolve the discrepancy.<sup>2</sup>
- A U.S. citizen was hired for a job at a poultry company in Georgia but received a TNC notice. The employee wanted to contest the TNC, but the company did not grant her time off to do so. As a result, the employee had no time to contest the TNC and was fired.<sup>3</sup>
- Juan Carlos Ochoa became a citizen in 2000. When he was offered a job at a car dealership in 2008, his employer used E-Verify to verify his employment eligibility. The employer received a TNC notice due to an error in SSA's database; SSA did not have any record of Ochoa's naturalization. Upon receiving the notice, Ochoa's employer fired him, a violation of E-Verify rules. Because he is out of work, he is late on his rent and his electricity has been shut off. Though Ochoa has a U.S. passport, the local SSA office told him he must bring in his naturalization certificate to prove his U.S. citizenship. Ochoa, however, lost his naturalization certificate years ago and will now have to pay close to \$400 and wait up to ten months for a replacement certificate.<sup>4</sup>



NATIONAL  
IMMIGRATION  
LAW CENTER  
www.nilc.org

LOS ANGELES (Headquarters)  
3435 Wilshire Boulevard  
Suite 2850  
Los Angeles, CA 90010  
213 639-3900  
213 639-3911 fax

WASHINGTON, DC  
1444 Eye Street, NW  
Suite 1110  
Washington, DC 20005  
202 216-0261  
202 216-0266 fax

- A naturalized U.S. citizen was hired by an Oregon telecommunications company but received a TNC because SSA records did not accurately reflect his citizenship status. He successfully contested the TNC at an SSA office, but the SSA representative did not correct his record. E-Verify then automatically issued an FNC, at which point the employer is required to dismiss the nonconfirmed worker. The employer did not immediately terminate the worker, however, but ran another query in E-Verify and got another TNC. The employee went back to SSA, and this time a representative updated his record but still failed to post the change to E-Verify. Once again, the employee received an FNC. Finally, he called the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), which called the SSA field office to explain proper E-Verify procedures so that the employee could keep his job.<sup>5</sup>
- A U.S. citizen residing in Florida was terminated by a national department store chain as a result of an erroneous E-Verify finding. The worker recently remarried and changed her name. After she received the TNC notice, she attempted to resolve the matter directly with the local SSA office and was informed by SSA that the matter was resolved. When she returned to work, she was informed that the U.S. Dept. of Homeland Security (DHS) had directed the company to terminate her employment and was told, “[Y]ou are suspected as a terrorist.”<sup>6</sup>
- Francisco Romero, a U.S. citizen from Arizona, has been fired twice from jobs as a construction worker after E-Verify failed to confirm his employment eligibility. He has been a U.S. citizen since 1996, but in 2008 he spent months shuttling between SSA and human resource offices trying to obtain confirmation that he is eligible to work. Romero was only able to return to work after a community advocate took on his case and located the error that was keeping him from being able to secure employment.<sup>7</sup>
- A 16-year-old U.S. citizen received a TNC because his mother’s maiden name was listed in his SSA records but he used his father’s last name on his application. Instead of letting him fill in the application with the correct name, the employer told his mother that his name would have to be legally changed.<sup>8</sup>
- In December 2008, a U.S. citizen was hired by a sporting goods store in Mississippi. E-Verify issued a TNC, but the store manager unlawfully told the worker not to contest the TNC. The corporate office then fired her due to her failure to contest the TNC.<sup>9</sup>
- Ken Nagel, a restaurant owner in Phoenix, Arizona, expressed scorn regarding E-Verify after he hired one of his daughters, a native-born U.S. citizen, and, upon feeding her information into the system, received a nonconfirmation of her eligibility to be employed in the U.S.<sup>10</sup>
- A U.S. citizen applied for a job at an Oklahoma City nursing home and was offered the position. The job offer was rescinded, however, and the nursing home notified her that it had decided to hire someone else. Later, it sent the worker a notice that she had received a TNC and that, as a result, someone else had been hired.<sup>11</sup>
- A U.S. citizen used the services of an employment services company in San Francisco, California, to look for a job. After applying online, she was given an appointment and told that there were a number of employers that would be interested in her based on her extensive work history. The next day, the employment agency told her that she could not be offered a job because the agency could not verify her U.S. citizenship. The employment services company was enrolled in E-Verify and received a TNC about the worker because the system could not make a determination about her work authorization. The employment agency violated E-Verify rules by refusing to give her a copy of the notice, though she requested one in order to seek legal advice. The agency demanded that she sign the notice right away so it

could destroy copies of her documents. When she refused, the employment agency told her that it could not place her because she was ineligible to work in the U.S.<sup>12</sup>

- A U.S. citizen with specialized engineering skills went to a staffing agency in Colorado and obtained a high-paying job. He received an erroneous TNC, however, and, against program rules, the agency did not allow him to continue working until he had corrected the error with the SSA. After the error was corrected, the agency was unable to find a comparable job for the employee.<sup>13</sup>

■ **Database errors incorrectly identify lawfully present immigrants and refugees as not authorized for employment.**

- A lawful permanent resident was hired by a Colorado children's learning center, but she received an erroneous TNC. She called DHS to contest the TNC, but DHS made no record of her call. E-Verify then automatically issued a final nonconfirmation, and the employee was fired. She did not get her job back until she called OSC, which worked with DHS to correct the error.<sup>14</sup>
- An employment-authorized immigrant was hired by a laundry facility in Minneapolis, Minnesota. When the employee's name was entered into E-Verify, his employer received a TNC because of an error in SSA's database. The worker was able to resolve the issue with the local SSA field office; however, when the employer reentered his information into the system, the employer received an FNC. Although the employer wanted to keep the worker, under E-Verify rules, the employer had to fire the worker or risk being found liable for violating immigration laws.<sup>15</sup>
- A Burmese refugee was hired at a job in Texas, but he received a TNC when his employer entered an incorrect date of birth in E-Verify. The employer then wrongly suspended him until he could resolve the TNC. In addition, the employer failed to provide him with the referral letter advising him to contact DHS by phone, so the refugee visited a DHS office instead. Once he got there, the office could not help him because he did not have the referral letter with his case number. Finally, he contacted OSC for help, and OSC corrected the error and arranged to reinstate the employee with full back pay.<sup>16</sup>
- A refugee attempted to obtain a job with a Texas oil production company, but the company unlawfully processed the refugee's information through E-Verify before hiring him and received a TNC. The refugee went to his local SSA office that same day and corrected the problem, but the company refused to resume the hiring process until the refugee contacted OSC.<sup>17</sup>
- A lawfully present immigrant worker was offered a job by a construction, fabrication, and maintenance company in Texas. The employer was enrolled in E-Verify and received a TNC about the worker. Violating program rules, the employer did not give the worker the opportunity to contest the notice. Despite this, the worker went to the local SSA office and received the appropriate confirmation that he was, in fact, authorized to work. Even with clarification from SSA, the employer refused to take the worker back. The worker even enlisted the help of an attorney, who sent a letter to the employer outlining its obligations under E-Verify. The employer failed to respond.<sup>18</sup>

FOR MORE INFORMATION, CONTACT

Tyler Moran, employment policy director | moran@nilc.org | 208.333.1424

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- <sup>1</sup> Facts gathered by NILC staff during the course of providing technical assistance to this Floridian, beginning in mid-December, 2010.
- <sup>2</sup> Account related at a Jan. 24, 2009, town hall meeting in Ashtabula, OH, sponsored by Building Unity in the Community and billed as “Why We Need Comprehensive Immigration Reform.”
- <sup>3</sup> Office of Special Counsel for Immigration-Related Unfair Employment Practices, Civil Rights Division, U.S. Department of Justice (OSC), *E-Verify Hotline Interventions*, Feb. 5, 2009.
- <sup>4</sup> Veronica Sanchez, “U.S. Citizen Claims He’s Victim of Employer Sanctions,” *12 News*, Mar. 7, 2008, <http://img.azcentral.com/12news/news/articles/employersanctions03072008.html>.
- <sup>5</sup> OSC, *E-Verify Hotline Interventions*, May 8, 2009.
- <sup>6</sup> OSC, *E-Verify Hotline Interventions*, Sept. 2009, emphasis added.
- <sup>7</sup> Kerry Howley, “Get in Line! Will Americans Have to Prove Their Right to Work Via an Error-plagued Database?” *Reason*, Oct. 1, 2008, p. 38.
- <sup>8</sup> OSC, *E-Verify Hotline Interventions*, Jan. 5, 2009.
- <sup>9</sup> OSC, *E-Verify Hotline Interventions*, Jan. 9, 2008.
- <sup>10</sup> Ronald J. Hansen, “Economy Serves Up Unhappy Meal: Worst Lull in 2 Decades is Hurting Valley Restaurateurs,” *Arizona Republic*, Mar. 3, 2008, [www.azcentral.com/business/articles/0303biz-econ-restaurants0303.html](http://www.azcentral.com/business/articles/0303biz-econ-restaurants0303.html).
- <sup>11</sup> OSC, *E-Verify Hotline Interventions*, Dec. 17, 2007.
- <sup>12</sup> Technical assistance request call received by NILC in Dec. 2007.
- <sup>13</sup> OSC, *E-Verify Hotline Interventions*, Sept. 11, 2007.
- <sup>14</sup> OSC, *E-Verify Hotline Interventions*, July 14, 2008.
- <sup>15</sup> Case described to NILC staff by Bruce Nestor of De León & Nestor, Minneapolis, Minnesota, in April 2008.
- <sup>16</sup> OSC, *E-Verify Hotline Interventions*, May 8, 2009.
- <sup>17</sup> OSC, *E-Verify Hotline Interventions*, Dec. 4, 2008.
- <sup>18</sup> Information provided to NILC by the Southern Poverty Law Center in Jan. 2008.



# Farm owners, workers worry about immigration law's impact on crops

By Craig Schneider  
The Atlanta Journal-Constitution

6:27 p.m. Friday, June 3, 2011

**DOUGLAS** — One hundred degrees worth of heat beats down upon the blackberry field, but Ismael Rodriguez plucks berry after berry with the speed of a veteran fruit picker.

Not far away, however, berries are shriveling on the vine on this South Georgia farm.

The farm owners say they don't have enough workers during this peak harvest season, namely Hispanic pickers such as Rodriguez. Rodriguez is a migrant worker. He is also an illegal immigrant. And, like many of his fellow pickers, he fears a new state law aimed at illegal immigration. Many migrants skipped Georgia this season as they follow the ripening of crops across the country.

Supporters of the law say that shows it is already working. They want the law to clear the state of illegal immigrants, who they say are taking advantage of Georgia's schools, hospitals and workplaces, draining public funds as they take jobs that could help the unemployed.

"I think we're the only country that allows people to come in and take over," said Sheila Bryan, 58, who cleans homes around Tifton, a farming community in South Georgia. "I'm sure there are enough legal people to do the work."

The new law, set to take effect July 1, is a new kind of heat bearing down on thousands of illegal immigrants in fruit and vegetable fields of Georgia, as well as their employers. Some workers who live in the state have sold their belongings and moved to pick the fields in North Carolina and Florida. Others, such as Rodriguez, are waiting to see what the new law brings and say it won't take much to send them packing.

The Atlanta Journal-Constitution recently visited farms in South Georgia to see what's happening on the ground, even as the illegal immigration issue churns in the courts and halls of powers. State agriculture officials are reviewing the extent of the worker shortages, and labor officials are brainstorming on ways to fill the gap. Civil rights advocates filed a lawsuit Thursday to stop the law before it takes effect.

The AJC found that some farm owners, especially those who rely on migrant workers, see the July start date of the law coming at them like a wrecking ball. Many of their crops are peaking right now, and they say they are desperate for pickers. Some farms have as few as half the workers they had last year. Once these fruits and vegetables ripen, a few days' delay in picking them can mean thousands of dollars dying on the vine. Farmers are already abandoning acres of fruit. They are raising wages, offering show-up bonuses, hanging employment posters in Hispanic groceries.

But it remains unclear exactly how widespread the labor shortages are and what the final impact will be.

The new law requires many businesses to confirm whether their new hires are eligible to work in the United States. It also empowers law enforcement to check the immigration status of people stopped even for minor traffic offenses.

While many of the farms that rely on Hispanic workers are in South Georgia, the impact of the labor shortage could reach metro Atlantans, farmers and agriculture advocates say. Production shortages could increase prices in local supermarkets.

In addition, the trouble with finding farmworkers — so urgent as crops come in for the summer harvest — could be a harbinger of shortages in metro Atlanta industries that depend on Hispanic workers. That could drive up costs for construction work, restaurants, tourist spots and landscaping.

"There's going to be some pain in this legislation," said state Sen. Jack Murphy, R-Cumming, a supporter of the law. "But there will also be relief in regards to illegal immigration, to stop it from taxing our infrastructure."

But, he said: "I wouldn't want my crops rotting in the fields. It is not the intent of this law to hurt the state's economy."

Murphy is awaiting the state review of the worker shortage.

Bo Herndon, a farmer in Toombs County, said the labor shortage has already cost him \$150,000 in Vidalia onions that rotted in the field. He's loading trucks as late as midnight to harvest his sweet corn in time.

Jason Berry, a farmer in Baxley, has lost 10 percent of his spring yield of highbush blueberries and has begun picking more fruit by machine. That leads to more damaged fruit that is either rejected or sent to the market for pies and frozen foods rather than the more lucrative market for fresh berries.

J.W. Paulk, the owner of the farm where Rodriguez works, said he has been unable to find workers beyond the Hispanic community, despite requests to the local labor office. Others just can't stand this much heat, and they come and go in a day or so.

Among his 125 acres of blackberries in Irwin County, he has 150 workers trying to do the work of 250. This year he raised wages from \$3 to \$3.50 per box of blackberries. That will cost him about \$10,000 more a week. The raise helped attract 30 more workers, who earn about \$100 a day. The raise will earn them about \$8 more a day. He has asked pickers to start their workday earlier to gather more of the ripening crop, but he has already abandoned one field, which cost him about \$40,000.

"We're falling behind," said Paulk, whose farm is located about a four-hour drive south of Atlanta. Overall, Georgia farming advocates say growers could lose \$300 million this season, and the toll could be even higher for future seasons.

Pedro Guerrero, Paulk's crew leader in charge of rounding up workers, said he has never had so much trouble finding pickers. He has made two extra trips to Florida looking for help. He is going door to door in local Hispanic neighborhoods, where he sees many more "For Rent" signs due to the lack of workers.

"When the governor signed the new law, they decided not to come to Georgia," Guerrero said of the migrant workers. Some even avoided driving through the state to get from Florida to North Carolina. "They're afraid to come here."

Out in the fields, workers talk of leaving, in a hurry if need be. They are accustomed to this work and wear long-sleeve shirts, broad hats and bandannas that drape across their face and down over the backs of their necks.

Rodriguez, the berry picker, worries he will be arrested and deported and what would then happen to his 1-year-old daughter, Elizabeth.

"I don't feel comfortable," he said through a translator, continuing to pick berries. "I worry."

Farmworkers who are legal say they worry they could be arrested for simply driving a sick illegal worker to a medical office. The new law punishes people who — while committing another crime — knowingly transport or harbor illegal immigrants or encourage them to come to Georgia.

Some workers won't leave their homes after work, for fear of being stopped by the police. That, and the general lack of workers here, has created a drain on local businesses, especially those that cater to the Hispanic community. Even some Hispanics who are legal say they worry about being harassed by the police.

At the state Labor Department office in Douglas, some unemployed people said they would not work in the fields. But some



would give it a shot.

Billy Bennett, an unemployed truck driver, said he favors cracking down on people who are in this country illegally.

"Anytime you make it easier for them to be in this country illegally, it's wrong," said Bennett, 44. "They say Americans don't want those jobs, but that's not true. When there's no jobs around, people will take them."

But Bennett said he would probably not work eight hours in the field for \$100 a day. He'd rather stick to his own line of work.

Quamari Williams, 36, working on his resume in the employment office, said he was willing to try the fields.

"I need a job so bad," said the man who had lost his job at Turner Field a month ago and is now living with a friend. "It would be temporary, until I found something else. It's the heat thing."

Farmers say they don't knowingly employ illegal immigrants. An employee must show various papers – driver's license, resident alien card, state ID – to prove they are permitted to work, they say. Workers say they hope the law is stopped before it starts. Farmers are hoping for a guest-worker program or some exemptions for their employees.

Over at Docia Farms in Tifton, which provides fruit for Kroger and Ingels in metro Atlanta, cantaloupe growing on the ground are turning from green to a ripe yellow. For the next eight weeks, workers will pick the fruit over 360 acres. The farm has 45 pickers but needs 70.

In the field, German Hernandez, a 33-year-old migrant worker, wears a hat and gloves as he tosses cantaloupe along a line of five men into a trailer. An illegal immigrant, Hernandez said he will head to North Carolina or Florida if the new law makes it tough for him to work here.

Farm owner Philip Grimes, who has been doing this work for 20 years, has heard the workers' concerns. He has \$1 million invested in the production line that cleans and packs the cantaloupe. If he cannot find enough pickers, he said he will stop growing produce. Next year he'll stick to peanuts and cotton, which can be harvested mechanically. Canteloupe is too fragile, he said.

"I don't know what to do," Grimes said. "I'm just trying to get my crop out."

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